

### **REMARKS/ARGUMENTS**

This paper is submitted in response to the office action mailed June 30, 2005.

In the office action certain drawing objections were entered based upon the wording of claim 24. Certain rejections were entered under 35 U.S.C. §112, first paragraph based on the same wording. In addition, claims 13, 14, and 23-28 were rejected under 35 U.S.C. §112, second paragraph.

Claims 1, 2, 9, 32, and 33 were rejected under 35 U.S.C. §102(b) as being anticipated by Woolley (United States Patent No. 5,149,165). Claims 29 and 31 were rejected under 35 U.S.C. §102(b) as being anticipated by Smith (United States Patent No. 5,845,937). Claims 3, 4, 5, and 34 were rejected under 35 U.S.C. §103(a) over Woolley in view of Galbraith, et al. (United States Patent No. 5,615,914). Claims 10-12 were rejected under 35 U.S.C. §103(a) over Woolley in view of Breed (United States Patent No. 6,209,909). Claim 13 was rejected under 35 U.S.C. §103(a) over Woolley in view of Tame (United States Patent No. 5,123,673). Claims 14 and 35 were rejected under 35 U.S.C. §103(a) over Woolley in view of Genders (United States Patent No. 5,967,603). Claims 15 and 19 were rejected under 35 U.S.C. §103(a) over Woolley in view of Vandermolen (United States Patent No. 6,120,082). Claims 20-22 were rejected under 35 U.S.C. §103(a) over Woolley, Vandermolen and Breed. Claim 23 was rejected under 35 U.S.C. §103(a) over Woolley, Vandermolen, and Tame. Claim 28 was rejected under 35 U.S.C. §103(a) over Woolley, Vandermolen, and Genders. Claim 30 was rejected under 35 U.S.C. §103(a) over Smith.

The Examiner indicated that claims 6-8 and 16-18 were being objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

By this paper claims 1, 15, 24, and 32 have been amended. Claims 13-14, 23, 28 and 35 have been cancelled. Accordingly, claims 1-12, 14-22, 24-27, and 29-35 are presented for reconsideration by the Examiner.

**Objections and Rejections Under 35 U.S.C. §112**

The Examiner objected to the drawings as failing to show the features as claimed in claim 24. The Examiner also entered a corresponding rejection under 35 U.S.C. §112, first paragraph. Claim 24 has now been amended to overcome the objection and rejection.

Claims 13-14, 23, and 28 were rejected under 35 U.S.C. §112, second paragraph. Those claims have now been cancelled, rendering the rejection moot.

**Rejections Under 35 U.S.C. §102(b)**

**a. Claims 1, 2, 9, 32, and 33**

In the Office Action, the Examiner rejected claims 1, 2, 9, 32, and 33 under 35 U.S.C. §102(b) as being anticipated by Woolley. However, Woolley does not disclose each and every element as set forth in claims.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131 (*quoting Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Id.* (*quoting Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, “the reference must be enabling and describe the applicant’s claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.” *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

As set forth above, claims 1 and 32 have been amended to more fully define the manner in which the vehicle seat moves. In particular those claims now provide that the seat moves in a generally curvilinear translation such that little or no tilting of the seat takes place. Support for these amendments can be found in the specification and figures, including at page 6, lines 10-17; page 15, lines 20-23; and Figures 3A-3C. This feature is important in maintaining the safety and comfort of a passenger seated in the seat.

Woolley fails to teach or disclose this feature. As stated in Woolley, the invention is “A safety system used in motor vehicles for raising the outboard side of a passenger seat upon side

impact of the vehicle by another object.” Woolley, Abstract. Woolley discloses tilting the seat by moving the outboard portion of the seat upwardly and pivoting the inboard portion of the seat about an axis, designed 28 in the figures. Woolley states that “The seat 21 rotates about an axis 28 that is positioned inboard of the interior of the motor vehicle.” Woolley, Col. 3, lines 63-65. Woolley specifically discusses the position that this places the occupant during a collision event. “In addition, the upward movement coupled with the rotation toward the center of the vehicle elevates the shoulder of the passenger upwardly to increase the probability of contact with the tope of the window frame.” Woolley, Col. 2, lines 56-60.

The present invention as claimed in claim 1, 32 and claims dependent therefrom, operates differently as discussed above. Namely, the seat is moved in such a manner that the tilting of the seat is minimized. This is to be contrasted with Woolley, where the seat is intentionally titled. The claims as amended specifically provide that the seat is uniformly displaced in a substantially curvilinear translation such that little or no titling of the seat takes place. This is entirely different from the Woolley reference, where the seat is intentionally pivoted. As a result, Woolley fails to teach each of the elements of the claims as amended, and the claims are not anticipated by Woolley.

#### **b. Claims 29 and 31**

The Examiner also rejected claims 29 and 31 under 35 U.S.C. §102(b) as being anticipated by Smith. However, claim 29 as amended includes the feature of a seat mounting structure for moving a seat vertically and laterally. These features are combined with the feature of an inflation module which stiffens the floor.

Smith fails to teach or suggest the seat mounting structure. Accordingly, claim 29, as amended, and claim 31 are not obvious in view of Smith.

#### **REJECTIONS UNDER 35 U.S.C. §103(a)**

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *MPEP* §2143.03. Applicants respectfully assert that the Examiner has not established a *prima facie* case of obviousness for the reasons discussed

below. A *prima facie* case of obviousness is established only if the Examiner shows that (1) there is some teaching, suggestion, or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference; (2) there is a reasonable expectation of success; and (3) the prior art teaches or suggests all of the claim limitations. *See id.* According to MPEP §2143.03, to establish a *prima facie* case of obviousness, “all of the claim limitations must be taught or suggested by the prior art.” (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (C.C.P.A. 1974)).

**a. Claims 3, 4, 5, and 34**

The Examiner rejected these claims under 35 U.S.C. §103(a) over Woolley in view of Galbraith. Essentially, these claims relate to the fact that the inflatable structure can be made of metal. Galbraith is cited as disclosing a metal airbag. However, as discussed above, neither Woolley nor Galbraith teach or suggest the manner in which the seat is displaced upon operation of the seat mounting structure. Neither reference teaches the concept of moving the seat in a uniform manner such that there is little or no titling of the seat. Since this feature is not taught or suggested in the cited art, these claims are not obvious under §103(a).

**b. Claims 10-12**

These claims were rejected under 35 U.S.C. §103(a) as being obvious over Woolley in view of Breed. These claims add the feature of an anticipatory sensor system. The Examiner cites Breed arguing that it discloses such a sensor system. Yet, as with the previous rejection, neither Woolley nor Breed teach the manner in which the seat is displaced as set forth in amended claim 1. Accordingly, claims 10-12 are not obvious in view of the cited prior art.

**c. Claims 13, 14, and 35**

These claims have now been cancelled. Accordingly, the rejections of these claims is now moot.

**d. Claims 15 and 19**

Claim 15 is an independent claim and claim 19 is dependent therefrom. These claims have been rejected over Woolley in view of Vandermolen. As mentioned by the Examiner, claim 15 includes the limitation of a piston device to displace the seat. The Examiner cited Vandermolen as showing a seat which is displaced by a strut.

However, the cited references, alone or in combination, fail to teach all of the limitations of claim 15 as amended, and the claims depending therefrom, including claim 19. Claim 15 provides that the seat is displaced vertically up and laterally toward the centerline of the vehicle. This feature is not taught in either Woolley or Vandermolen. As mentioned above, Woolley simply teaches pivoting the seat around a pivot point. Vandermolen teaches a seat suspension system for moving the seat downwardly to the limit of its vertical travel during a collision. Vandermolen, Abstract; Col. 2, lines 45-49. Neither reference teaches or suggests the combination of movements set for in claim 15. Accordingly, these references fail to teach all of the features of the claims and, therefore, the claims are not obvious in view of these references.

**e. Claims 20-22**

These claims were rejected as being obvious over Woolley, in view of Vandermolen and Breed. Similarly to claims 10-12 discussed above, these claims relate to the anticipatory sensor system. However, these claims are dependent from claim 15. Therefore, they are not obvious for the same reasons discussed above with reference to claim 15.

**f. Claims 23 and 28**

These claims have now been cancelled. Accordingly, the corresponding rejections are now moot.

**g. Claim 30**

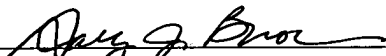
This claim is dependent from claim 29. Accordingly, it is patentable for the same reasons that claim 29 is patentable. In addition, the Examiner cited Smith as rendering claim 30 obvious, but then admitted that Smith did not disclose the thickness limitations set forth in claim 30.

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Rather, the Examiner indicated that the chose of thickness would be a matter of design choice. Applicants respectfully request that the Examiner substantiate that holding.

For the reasons set forth above, none of the claims as amended are anticipated by or rendered obvious in view of any of the cited prior art. Accordingly, Applicants respectfully request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

  
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